

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

ROLAND F. WINFREY ,

Defendant.

NO. CR-06-0062-LRS

**ORDER DENYING DEFENDANT'S
MOTION FOR A NEW TRIAL**

BEFORE THE COURT is Defendant's motion for a new trial (**Ct. Rec. 85**).

I. DISCUSSION

Mr. Winfrey was convicted by jury of a violation of 18 U.S.C. §922(g)(1) on December 7, 2006. Mr. Winfrey, through his defense attorney, filed a motion for a judgment of acquittal or a motion for a new trial on December 14, 2006, within the time period required under Fed. R. Crim. P. 29; however without any supporting memoranda. Defense counsel moved for and was granted an extension of time to file supporting memoranda as the the transcript was not complete and counsel had not had sufficient time to review the record. Defendant was then granted a second extension to file briefing in support of the motion.

1 On February 27, 2007, Mr. Winfrey filed a notice regarding
2 Defendant's Rule 29 motion for judgment of acquittal. In the brief,
3 Defendant stated, "Mr. Winfrey moved at the close of the government's
4 case for a Rule 29 motion for judgment of acquittal. R.P.T. 239-242.
5 Since the rule does not require that the defendant renew the
6 motion at the close of all evidence, or after the jury has
7 returned the verdict, Mr. Winfrey rests on earlier motion and
8 preserves further review for the Ninth Circuit Court of Appeals." Ct.
9 Rec. 100 at 2. The government responded to Defendant's notice in the
10 following manner: "As the Defendant rests on [his] earlier motion[,]
11 the United States likewise rests on its previous response and this
12 Court's denial of the Defendant's motion." Ct. Rec. 109.

14 As the Defendant has not put forth any new law or facts, this
15 Court reaffirms it's denial of Defendant's motion for a new trial at
16 the close of the case for the reasons set forth on the record. In
17 addition, the evidence supported the finding of Defendant's guilt.
18 Therefore, Defendant's motion for a new Trial (**Ct. Rec. 85**) is **DENIED**.

19 **IT IS SO ORDERED.** The District Court Executive is directed to
20 enter this order and to provide copies to all counsel.

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23 **DATED** this 3rd Day of April, 2007.

24 /s/ Lonny R. Suko

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LONNY R. SUKO
26 United States District Judge

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